

From: Wolek, Adam
Sent: Friday, February 14, 2014 2:05 PM
To: Liddiard, Dylan; Bish, Dale; Owens, Jasmine; 'Joe Kellerman' (jek@roguelaw.com); Stern, Evan; Marquez, Purita
Cc: Rowden, Todd A.; Shah, Kal K.; Stewart, Raymond J.
Subject: RE: Roederer v. Treister: Document Production & Protective Order

Dylan,

We've sent many emails and offers of calls to you to attempt to resolve this dispute. As you are aware, we have offered several days when we were available to discuss earlier this week, but you said none were available and instead offered times to discuss a week later. With the preliminary injunction now less than 2 weeks away, we cannot wait any longer. And frankly, there is nothing nuanced, complex or even controversial about these designations. Simply put, there is no appropriate basis to restrict these financial documents from our forensic accounting expert.

Indeed, that is precisely why the Protective Order has a mechanism for dealing with such information: "Professional Eyes Only." Your refusal to so designate, as your predecessor counsel did designate ["Confidential", which is a lower designation than "Professional Eyes Only"] on virtually the same (but earlier) financial information, is troubling. Your claim that you cannot discuss until Tuesday or later—the same day as our status conference with the Court—leaves us no functional alternative but to file a motion to compel in order for the Court to address it in time to help us prepare. We are disappointed by your decision, but your actions leave us no other choice. Therefore, as we said, we will file the motion this afternoon unless you designate these documents as "Professionals' Eyes Only" to allow our expert to analyze them, or to stipulate as such.

Sincerely,

Adam Wolek

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From: Liddiard, Dylan [mailto:dliddiard@wsgr.com]
Sent: Friday, February 14, 2014 12:16 PM
To: Wolek, Adam; Bish, Dale; Owens, Jasmine; Kellmeyer, Joseph; Stern, Evan; Marquez, Purita
Cc: Rowden, Todd A.; Shah, Kal K.
Subject: RE: Roederer v. Treister: Document Production & Protective Order

Adam:

Not sure how you can claim we have corresponded "extensively" about this issue when we have only exchanged a couple of emails about it. Happy to "meet and confer" with you on Tuesday if you want to propose times. If next Tuesday does not work for you, you should also suggest times on Wednesday and Thursday as I flexible on those days as well. Let me know as it does not make any sense to engage in motion practice when we have not even met and conferred about this issue.

Regards,
Dylan

From: Wolek, Adam [<mailto:AWolek@thompsoncoburn.com>]
Sent: Friday, February 14, 2014 5:49 AM
To: Liddiard, Dylan; Bish, Dale; Owens, Jasmine; Kellmeyer, Joseph; Stern, Evan; Marquez, Purita
Cc: Rowden, Todd A.; Shah, Kal K.
Subject: RE: Roederer v. Treister: Document Production & Protective Order

Hello Dylan,

We have corresponded about this issue extensively now and because the preliminary injunction hearing is less than 2 weeks away, and despite our best efforts to compromise, we can no longer delay asking the Court to intervene. If we cannot reach agreement on a designation under the Protective Order that will enable us to use accounting experts who can read your clients' files and analyze the complex financial transactions, we are simply at an impasse. Please let us know if you agree to designating financial documents as "Professionals Eyes Only," or alternatively permit KPMG to access the files by 2pm (PST) Friday, February 14, 2014. Otherwise, we will have no choice but to file a Motion to Compel Compliance of Dkt. 79 Pursuant to the Protective Order. I am available to discuss anytime before then.

Thank you, and we look forward to hearing from you soon.

Regards,

Adam

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From: Liddiard, Dylan [<mailto:dliddiard@wsgr.com>]
Sent: Thursday, February 13, 2014 3:57 PM
To: Wolek, Adam; Bish, Dale; Owens, Jasmine; Kellmeyer, Joseph
Cc: Rowden, Todd A.; Shah, Kal K.; Stern, Evan; Marquez, Purita
Subject: RE: Roederer v. Treister: Document Production & Protective Order

Adam:

The financial materials (bank and account statements, Quickbooks, etc) should all be treated as "Highly Confidential Attorneys' Eyes Only" under the terms of the protective order entered in this case. Happy to discuss with you as we have not and do not consent to KPMG reviewing materials that have been designated as "Highly Confidential Attorneys' Eyes Only". I am available to discuss on Tuesday (Monday is a holiday). Please propose some times that work for you.

Regards,
Dylan

From: Wolek, Adam [<mailto:AWolek@thompsoncoburn.com>]
Sent: Wednesday, February 12, 2014 1:41 PM
To: Liddiard, Dylan; Bish, Dale; Owens, Jasmine; Kellmeyer, Joseph
Cc: Rowden, Todd A.; Shah, Kal K.
Subject: Roederer v. Treister: Document Production & Protective Order

Dylan,

Thank you for your email. As you are aware, all of Defendants' prior QuickBooks and financial production had been produced as "Confidential" under the Protective Order (Dkt. 23) until your January 17, 2014 production. As we stated in our February 5, 2014 email (attached), we object to the newly added AEO designation for all financial documents, but are amenable to a more sensitive classification like the Professional's Eyes Only designation under the Protective Order, or an agreement to allow our experts, KPMG, to review the documents. To that end, please find attached an executed Statement of Prospective Recipient of Confidential Material from KPMG as provided by the Protective Order.

As you know, some of the financial files require specialized software like QuickBooks to run, and they contain complicated financial transactions. In order to be able to process and analyze this information, experts who have the appropriate software and expertise are required. Accordingly, please let us know if you stipulate to treating financial documents as Professional's Eyes Only, or in the alternative permitting KPMG to review all QuickBooks and financial document productions.

If you are not amenable to this compromise, please let us know when you are available today or tomorrow to meet and confer about this issue.

Thank you.

Sincerely,

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From: Shah, Kal K.
Sent: Wednesday, February 12, 2014 1:09 PM
To: Wolek, Adam
Subject: FW: Tree star litigation

FYI

From: Liddiard, Dylan [<mailto:dliddiard@wsgr.com>]
Sent: Wednesday, February 12, 2014 12:29 PM
To: Shah, Kal K.; Rowden, Todd A.
Cc: Bish, Dale; Stern, Evan; Owens, Jasmine
Subject: Tree star litigation

Kal:

Not sure if it was you or Adam who asked whether we intended to mark the documents that have been produced as "Attorney Eyes Only" pursuant to the protective order. The answer is yes. All financial materials produced to date should be treated as "Attorney Eyes Only", including the QuickBooks database and all bank, financial and tax records and accounts.

Regards,
Dylan

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